

Message Text

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ACTION STR-04

INFO OCT-01 STRE-00 H-01 AF-08 ARA-06 EA-07 EUR-12 NEA-10
FEA-01 AGRE-00 CEA-01 CIAE-00 COME-00 DODE-00 EB-08
FRB-03 INR-07 INT-05 L-03 LAB-04 NSAE-00 NSC-05 PA-01
AID-05 SS-15 ITC-01 TRSE-00 USIA-06 PRS-01 SP-02
OMB-01 OIC-02 ISO-00 /120 W
-----082135Z 076560 /66

P R 081705Z MAR 77
FM USDEL MTN GENEVA
TO SECSTATE WASHDC PRIORITY 2296
INFO ALL OECD CAPITALS 168
AMEMBASSY NEW DELHI
AMEMBASSY BRASILIA
AMEMBASSY MEXICO

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ACTION STR

H PASS CODEL

E.O. 11652: N/A
TAGS: ETRD, MTN
SUBJECT: GOVERNMENT PROCUREMENT SUBGROUP MEETING MARCH 3-4

1. SUMMARY: MTN SUBGROUP ON GOVERNMENT PROCUREMENT HELD FIRST SUBSTANTIVE MEETING IN POSITIVE AND CONSTRUCTIVE ATMOSPHERE. MAJOR DELEGATIONS SUPPORTED NEED FOR A MECHANISM TO ENSURE NONDISCRIMINATION FOR FOREIGN SUPPLIERS IN GOVERNMENT PURCHASING. DETAILED DISCUSSION ON ELEMENTS SET FORTH IN MTN/NTM/W/74 FOLLOWED, HIGHLIGHTED BY EXTENSIVE JAPANESE POLICY STATEMENT AND CANADIAN CALL FOR SPECIFIC WORK ON PROVISIONS CONCERNING NON-DISCRIMINATION, NATIONAL TREATMENT, TRANSPARENCY, AND SURVEILLANCE/DISPUTE SETTLEMENT. LDC'S MADE GENERALLY

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CONSTRUCTIVE COMMENTS IN SPITE OF FAMILIAR CALLS FOR "SPRINKLING" OF S&D IN GENERAL PROVISIONS OF AN AGREEMENT. SUBGROUP AGREED NEXT MEETING TO BE HELD WITHIN THREE MONTHS WITH SPECIFIC DATE TO BE SET BY NTM PARENT GROUP. END SUMMARY.

2. USDEL (NEWKIRK) BEGAN SUBSTANTIVE PORTION OF MEETING

WITH OPENING STATEMENT ALONG LINES OF ANNEX A OF TPSC 77-20. EC DEL (DERISBOURG), IN VERY SHORT OPENING STATEMENT SUPPORTED WORK OF SUBGROUP AND INDICATED THAT THE PREVIOUS OECD WORK SHOULD FORM A SOLID BASIS FOR FUTURE DISCUSSION. CANADIAN DEL (CLARK) MADE LENGTHY OPENING STATEMENT OUTLINING IMPORTANCE OF IMPOSING INTERNATIONAL RULES FOR GOVERNMENT PROCUREMENT. HE NOTED THAT BECAUSE GOVERNMENT PROCUREMENT WAS LINKED DIRECTLY TO OTHER TRADE BARRIERS UNDER NEGOTIATION IN THE MTN (TARIFFS, SUBSIDIES), PROGRESS HERE WAS IMPORTANT FOR GENERAL TRADE LIBERALIZATION. CLARK INDICATED THAT GOVERNMENT PROCUREMENT WAS MENTIONED MORE THAN ANY OTHER NTM BY CANADIAN INDUSTRIES IN GOC SURVEYS. CLARK THEN WENT ON TO NOTE A LONG LIST OF PROVISIONS NEEDED TO ENSURE NONDISCRIMINATION IN ANY NEGOTIATED AGREEMENT. THE LIST HE INDICATED WAS VERY SIMILAR TO US THINKING IN ANNEX B OF TPSC 77-20. SPECIFICALLY, HE CITED FOUR KEY SETS OF PROVISIONS FOR FUTURE WORK: (A) NONDISCRIMINATION AND NATIONAL TREATMENT; (B) NATURE AND CONTENT OF TRADE TO BE COVERED; (C) TRANSPARENCY; (D) SURVEILLANCE AND DISPUTE SETTLEMENT. FYI- CANADIANS HAVE INDICATED INFORMALLY THAT THEY WILL BE DRAFTING WITHIN THE NEXT TWO WEEKS THEIR OWN SECTIONS ON THESE FOUR AREAS AND PLAN TO DISCUSS THEIR DRAFT BILATERALLY WITH THE US AND OTHER DELS. (BURNES FROM OECD PARIS AND MARSHALL FROM OTTAWA IN GENEVA TO ASSIST IN DRAFTING). CLARK, IN MEETING AND IN PRIVATE, INDICATED CANADIAN DESIRE TO REWRITE MAJOR SECTIONS OF OECD DRAFT. END FYI.

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3. IN PERHAPS MOST SIGNIFICANT ASPECT OF MEETING, JAPANESE DEL (TERADA) INDICATED THAT THE GOJ WOULD SUPPORT THE ACTIVITIES OF THE SUBGROUP "WHOLEHEARTEDLY" AND BE ONE OF ITS "BEST CONTRIBUTORS". HE STATED THAT A FULL POLICY REVIEW OF GOVERNMENT PROCUREMENT WAS UNDERWAY IN TOKYO AND THAT THE JAPANESE OBJECTIVE WAS NEGOTIATION OF AN INTERNATIONAL AGREEMENT TO MAKE NONDISCRIMINATION A GENERAL RULE. HE EMPHASIZED THAT CURRENT JAPANESE PROCUREMENT PRACTICES ARE BASED ON THE PRINCIPLE OF TRANSPARENCY IN PROCUREMENT PROCEDURES. HE NOTED THAT THE JAPANESE PRACTICE OF INVITING ALL BIDDERS AS WITNESSES AT THE OPENING OF BIDS WOULD BE SUFFICIENT TO SECURE TRANSPARENCY. HE THEREFORE INDICATED IT SHOULD NOT BE NECESSARY TO ALTER NATIONAL PRACTICES IF THEY CONFORM TO THE GENERAL PRINCIPLE OF NONDISCRIMINATION. JAPANESE DEL THEN COMMENTED IN DETAIL - THE FIRST TIME THE GOJ HAS PARTICIPATED IN SUCH A DISCUSSION IN AN INTERNATIONAL FORUM - ON MTN/NTM/W/74. HE INDICATED THAT ANY POTENTIAL AGREEMENT SHOULD COVER ONLY ENTITIES UNDER THE DIRECT CONTROL OF THE CENTRAL GOVERNMENT,

AND SPECIFICALLY SHOULD NOT, REPEAT NOT, INCLUDE JAPAN-ESE PUBLIC CORPORATIONS. HE FURTHER STATED THAT PROCUREMENT BELOW ANY AGREED UPON THRESHOLD SHOULD STILL REMAIN SUBJECT TO THE GENERAL PRINCIPLE OF NONDISCRIMINATION. TERADA INDICATED THAT THE GOJ BELIEVES THAT SINGLE TENDERING SHOULD BE ALLOWED IN THE CASE OF A SOLE PRODUCER, IN EMERGENCY SITUATIONS, IN RESEARCH AND DEVELOPMENT ALREADY ASSOCIATED WITH THE GOVERNMENT, AND IN SITUATIONS WHEN THERE IS NO SUCCESSFUL BIDDER TO AN OPEN TENDER. FYI - TERADA EXPLAINED PRIOR TO MEETING THAT THIS WAS FIRST TIME JAPAN-ESE HAVE HAD A POSITION ON GOVERNMENT PROCUREMENT. THE STATEMENT HE DELIVERED IS THE "INTERIM PRODUCT" OF AN INTERMINISTERIAL REVIEW AND MORE COULD BE EXPECTED LATER. END FYI.

4. US DEL GAVE COMMENTS ON MTN/NTM/W/74 ALONG GUIDELINES SET FORTH IN TPSC 77-20. EC DEL GAVE RAMBLING COMMENTS ON LIMITED OFFICIAL USE

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ELEMENTS SET FORTH IN W-74. FYI - MEMBER STATES REPORT-EDLY REMAIN COMMITTED TO OECD DRAFT AND WERE PLEASED WITH US PROPOSAL TO USE OECD DRAFT AS A BASIS FOR NEGOTIATION. END FYI. DERISBOURG INDICATED THAT PER-

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PR 081705Z MAR 77
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TO SECSTATE WASHDC PRIORITY 2297
INFO ALL OECD CAPITALS 169
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ACTION STR

H PASS CODEL

HAPS ONE OF THE MOST DELICATE MATTERS TO BE DEALTH WITH
IN THIS AREA WILL BE THE DEFINITION OF WHAT "PARAGOV-
ERNMENTAL ENTITIES" WILL BE COVERED BY ANY POSSIBLE AGREE-
MENT. OTHER COMMENTS ON ELEMENTS GENERALLY CONFORMED TO
EC POSITION WHICH HAS BEEN PRESENTED IN PERVERIOUS OECD AND
BILATERAL MEETINGS.

5. SWISS AND NORDIC DELS NOTED EFFECTIVE INTERNATIONAL
RULES ON PROCUREMENT ARE POSSIBLE AND CITED SMOOTH OPERA-
TION OF EFTA SYSTEM AS AN EXAMPLE. BOTH STATED THAT OECD
DRAFT WAS A GOOD GUIDE FOR SUBGROUP'S WORK.

6. LDC'S PRESENTED A UNIFIED FRONT, BUT WERE GENERA-
ALLY CONSTRUCTIVE CONSIDERING THAT THIS WAS THE FIRST MEET-
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ING ON THIS SUBJECT AND REQUIRED A CERTAIN AMOUNT OF
POSTURING. THEIR BASIC MESSAGE WAS THAT S&D BE CONSIDERED
ON AN EQUAL STANDING AND SIMULATENEOUSLY WITH OTHER CONCEPTS
IN GOVERNMENT PROCUREMENT DISCUSSIONS. IN LINE WITH THIS,
THEY SUPPORTED CANADIAN POSITION THAT OECD DRAFT NOT,
REPEAT NO, BE USED AT THIS TIME AS THE BASIS FOR DISCUSSION.
GENERAL CONSENSUS AMONG LDC'S APPEARS TO BE THAT DISCUSSIONS
SHOULD BE INITIATED ON METHODS OF GIVING S&D AT THE SAME
TIME AS LDC'S BECOME FAMILIARIZED WITH THE GENERAL ISSUES
IN GOVERNMENT PROCUREMENT WHICH HAVE BEEN DISCUSSED SO LONG
BY THE DC'S.

7. IN HELPFUL INTERVENTION, MEXICAN DEL (DELGADO) EMPHA-
SIZED THAT THE FUNDAMENTAL PROBLEM FOR THE LDC'S IN THIS
AREA IS LACK OF INFORMATION. ACCORDINGLY, HE FELT
THAT THE SUBGROUP SHOULD ADDRESS SPECIAL LDC PROBLEMS
IN ORDER TO BRING THE LEVEL OF ADVANCEMENT ON S&D AS-
PECTS OF PROCUREMENT UP TO THE LEVEL OF THE
OECD WORK. HE EMPHASIZED THAT LDC'S MUST BE CONSIDERED
AS EXPORTERS AS WELL AS IMPORTERS. INDIAN DEL (HEMERA-
JANI), IN A VIEW ECHOED BY SEVERAL OTHER LDC'S, STATED
THAT THE OECD DRAFT COULD BE TAKEN AS "A" BASIS, BUT NOT
"THE" BASIS FOR WORK IN THE SUBGROUP. HE SUPPORTED THE
US POSITION FOR A LOW THRESHOLD AND FOR RESTRICTIONS ON
SELECTIVE TENDERING. HE ALSO SUPPORTED WIDE PUBLI-
CITY AS A MEANS OF OBTAINING TRANSPARENCY. FURTHER,

HE INDICATED THAT DCS COULD HELP LDC'S IN THIS AREA BY PROVIDING TECHNICAL ASSISTANCE AND INQUIRY POINTS. IN AN INTERESTING POINT, NOT REITERATED BY OTHER LDC'S, HE STATED THAT PREFERENTIAL ACCESS IN LDC MARKETS SHOULD BE ASSURED TO OTHER LDC'S, NOTING THAT CONCEPT OF INTRA-LDC PREFERENCES WAS ALREADY WELL ACCEPTED. THE ISRAEL DELEGATE STRESSED THE NEED FOR TIGHT RULES TO OVERCOME THE FORMIDABLE EXISTING GOVERNMENT PROCUREMENT BARRIERS OF LANGUAGE, TIME, DISTANCE, ETC. AND NOTED BASIC LDC DILEMMA OF SEEKING BOTH NONDISCRIMINATION AND PREFERENTIAL S&D

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TREATMENT. ECUADOR SPEAKING FOR THE ANDEAN GROUP INDICATED THAT IT HOPED THE SECRETARIAT COULD WORK ON HOW TO APPLY S&D TO ANY GOVERNMENT PROCUREMENT AGREEMENT SO THAT LDCS COULD (A) PARTICIPATE IN THE GOVERNMENT PROCUREMENT OF DCS AND (B) USE GOVERNMENT PROCUREMENT PRACTICES IN THEIR OWN MARKETS AS A TOLL FOR ECONOMIC DEVELOPMENT PURPOSES. DELEGATIONS FROM EGYPT, BRAZIL, JAMAICA, SINGAPORE, AND MALAYSIA GENERALLY SUPPORTED COMMENTS MADE BY MEXICO AND ECUADOR, WHILE NIGERIA DEL EXPRESSED CONCERN OF MANY AFRICAN GOVERNMENTS IN COMPROMISING ANY FLEXIBILITY THESE GOVERNMENTS ENJOY AS IMPORTERS.

8. AFTER BRIEF DISCUSSION ON OBTAINING INFORMATION ON NATIONAL PROCUREMENT SYSTEMS FRON NON-OECD ADHERENTS, IT WAS AGREED THAT THE SECRETARIAT (A) WOULD CONTACT THE OECD TO OBTAIN FOR USE OF THE SUBGROUP, COPIES OF THE "GREEN BOOK"; (B) WOULD ASK THE OECD COUNTRIES TO MAKE AVAILABLE TO THE SUBGROUP ANY NEW INFORMATION ON THEIR NATIONAL PRACTICES NOT REFLECTED IN THE GREEN BOOK; AND (C) WOULD CONSULT WITH THE NON-OECD COUNTRIES ON THE FORM AND SHAPE SUCH INFORMATION CONCERNING THEIR NATIONAL PRACTICES WOULD TAKE IN SUBMISSION TO THE SUBGROUP. SUBGROUP ALSO REQUESTED SECRETARIAT TO PROVIDE A CHECKLIST OF POINTS MADE BY DELS ON VARIOUS GOVERNMENT PROCUREMENT ELEMENTS DISCUSSED AT MEETING. ALL DOCUMENTS ON TABLE WILL REMAIN ON AGENDA FOR NEXT MEETING.

9. SUBGROUP AGREED TO MEET AGAIN IN TWO TO THREE MONTHS AND TO ASK NTM PARENT GROUP TO SET PRECISE DATE.

10. COMMENT:ALL DELS THAT WE CONTACTED AFTER THE MEETING WERE QUITE PLEASED (SOME WERE SURPRISED WITH THE SUBSTANCE OF THE MEETING. IN ADDITION TO THE DEBUT OF THE JAPAN-ESE POSITION, THE LEVEL OF PREPAREDNESS OF THE LDC'S MADE FOR A VERY USEFUL SESSION. END COMMENT. WALKER

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Message Attributes

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